

Order

Michigan Supreme Court
Lansing, Michigan

June 3, 2009

Marilyn Kelly,
Chief Justice

138312 & (36)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

In re DYLAN TYLER HALL, BRANDI NICOLE
HALL, and FELICITY JASMINE FILBRANDT,
Minors.

DEPARTMENT OF HUMAN SERVICES,
Petitioner-Appellant,

v

SC: 138312
COA: 285683
Kalkaska CC Family Division:
07-003955-NA

KIMBERLEE FILBRANDT,
Respondent-Appellee.

By order of April 3, 2009, the respondent's appointed counsel was directed to answer the application for leave to appeal the January 29, 2009 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals, and we REINSTATE the May 15, 2008 order of the Kalkaska Circuit Court, Family Division, terminating the respondent-mother's parental rights to the minor children. The Court of Appeals misapplied the clear error standard by substituting its judgment for that of the trial court, MCR 2.613(C), *In re Miller*, 433 Mich 331 (1989), and rendered a decision that was contrary to the clear and convincing evidence supporting termination of the respondent-mother's parental rights pursuant to MCL 712A.19b(3)(b)(ii) and (j). We REMAND this case to the Kalkaska Circuit Court, Family Division, for further proceedings not inconsistent with this order.

We do not retain jurisdiction.



s0527

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 3, 2009

Corbin R. Davis

Clerk